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**To:** United States Patent and Trademark Office **From:** Shirley A. Kopecky  
Commissioner for Patents  
**Fax:** 571-273-8300 **Phone:** 713-483-5386  
**Fax:** 713-483-5384/281-884-0623  
**Pages:** 8 Including cover sheet **Date:** 4/13/2007  
**Re:** Attorney Docket: COS-936 **CC:**  
☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

**Customer No: 25264**

In re Application of: Josa M. Sosa, et al.

Serial No.: 10/729,446

Confirmation No.: 1024

Filed: December 5, 2003

For: "Impact Modified Polystyrene and Process  
for Preparing Same"§  
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Group Art Unit: 1711

Examiner: Olga Asinovsky

Attorney Docket No. COS-936

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Examiner: Olga Asinovsky

Attorney Docket No. COS-936

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## CERTIFICATE OF FACSIMILE

37 CFR 1.8

I hereby certify that this correspondence is being facsimile  
transmitted to the Patent and Trademark Office to the  
designated fax 571-273-8300, to the attention of the named  
Examiner, on the date below.

April 13, 2007  
Date

Elaine Barnett  
Signature

USPTO

Examiner Olga Asinovsky

Re: Premature Abandonment of U.S. Appl. No. 10/729,446

Dear Examiner Asinovsky,

In follow up to our conversations, we have now obtained the Application number (Serial No. 11/725,447) for the continuation application for the aforementioned parent application. That continuation application was timely filed on March 24, 2007. This filing information was obtained yesterday afternoon by my secretary Elaine Barnett, using the Express Mailing Number associated with the filing of the continuation application (EQ 190572055 US). See *Exhibit 1 (Express Mailing Information)*.

Again, pursuant to the USPTO rules, Applicants have two (2) months from the date of the Board of Patent Appeals and Interferences decision to take further action, including but not limited to filing a continuation application. The Board's decision has a mailing date of January 26, 2007. See *Exhibit 2 (Page 1 of Board's Decision and PAIR Transaction History)*.

Unbeknownst to Applicants, before that period expired you entered a Notice of Abandonment – this was premature and in contravention of the rules. See *Exhibit 3 (Notice of Abandonment)*. However, this Notice was not received by Applicants until March 26, 2007.

Thus, please withdraw your Notice of Abandonment as soon as possible – or take whatever other action is necessary to ensure Applicants' filing date of March 24, 2007 is maintained for Application Serial No. 11/725,447. Further, please confirm that you will be withdrawing the Notice of Abandonment (or taking other appropriate action), preferably in writing by April 16, 2007.

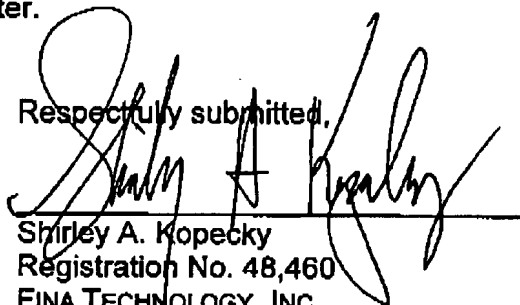
I will follow-up with a phone call to you this afternoon.

Thank you for your attention in this matter.

Dated

April 13, 2007

Respectfully submitted,



Shirley A. Kopecky  
Registration No. 48,460  
FINA TECHNOLOGY, INC.  
P.O. Box 674412  
Houston, Texas, 77267-4412  
Telephone: 713-483-5386  
Facsimile: 713-483-5384/281-884-0623  
E-Mail: Shirley.kopecky@total.com  
Attorney for Applicants

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: Sosa

Filed: Herewith  
For: Impact Modified Polystyrene and  
Process for Preparing SameCommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## CERTIFICATE OF MAILING

37 CFR 1.10

I hereby certify that this correspondence is being  
deposited on the date below with the United States  
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190572055 US, in an envelope addressed to:  
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Date

Signature

APR 13 2007

Dear Honorable Commissioner:

## UTILITY PATENT APPLICATION TRANSMITTAL

In connection with the above identified application, Applicants respectfully  
submit the following documents:

- ☒ Specification, claims and abstract, 23 pages;
- ☒ Figures, 1 pages;
  - ☐ Formal;
  - ☐ Informal;
- ☐ Declaration;
  - ☐ Newly executed;
  - ☐ Copy from prior application;
- ☐ Power of Attorney
- ☐ Assignment & Recordation Cover Sheet;
- ☒ Fee Calculation & Payment Authorization;
- ☐ Information Disclosure Statement & PTO Form 1449;
- ☒ Application Data Sheet;
- ☒ Preliminary Amendment;

Respectfully submitted,

Tenley R. Krueger

Registration No. 51,253

T.R. Krueger, P.C.

P.O. Box 16356

Sugar Land, Texas, 77496

Telephone: 281-778-8934

Facsimile: 281-778-8937

Attorney for Applicant(s)

COS-936C1 PA Transmittal

1

EXHIBIT



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APR 13 2007

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10/729,446

Impact modified polystyrene and process for pi same

Select New Case	Application Data	Transaction History	Image File Wrapper	Community Data	Published Documents	Alt
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## Transaction History

Date	Transaction Description
03-19-2007	Mailing of Abandonment after Board of Appeals
03-15-2007	Abandonment after Board of Appeals
01-26-2007	Mail BPAI Decision on Appeal - Affirmed
01-26-2007	BPAI Decision - Examiner Affirmed
07-18-2006	Docketing Notice Mailed to Appellant
07-18-2006	Assignment of Appeal Number
07-14-2006	Appeal Awaiting BPAI Docketing
07-10-2006	Mail Reply Brief Noted by Examiner
07-07-2006	Reply Brief Noted by Examiner
05-03-2006	Date Forwarded to Examiner
04-29-2006	Reply Brief Filed
04-13-2006	Mail Examiner's Answer
04-12-2006	Examiner's Answer to Appeal Brief
02-03-2006	Date Forwarded to Examiner
01-30-2006	Appeal Brief Filed
01-20-2006	Notice -- Defective Appeal Brief
11-16-2005	Date Forwarded to Examiner
11-08-2005	Defective / Incomplete Appeal Brief Filed
11-08-2005	Appeal Brief Filed
09-12-2005	Notice of Appeal Filed
09-12-2005	Request for Extension of Time - Granted
07-18-2005	Mail Advisory Action (PTOL - 303)
07-14-2005	Advisory Action (PTOL-303)
06-30-2005	Date Forwarded to Examiner
06-27-2005	Amendment after Final Rejection
04-11-2005	Mail Final Rejection (PTOL - 326)
04-07-2005	Final Rejection
03-21-2005	Date Forwarded to Examiner
03-04-2005	Response after Non-Final Action
03-04-2005	Reference capture on IDS
03-04-2005	Information Disclosure Statement (IDS) Filed
12-08-2004	Mail Non-Final Rejection

EXHIBIT

2

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

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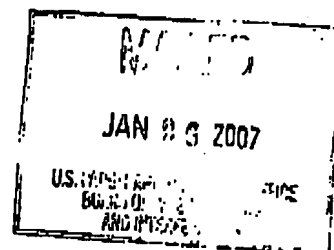
**APR 13 2007**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

*Ex parte* JOSE M. SOSA, KENNETH P. BLACKMON  
and DOUG BERTI

Appeal 2006-2617  
Application 10/729,446  
Technology Center 1700

**ON BRIEF**



Before SCHEINER, MILLS, and GRIMES, *Administrative Patent Judges*.

GRIMES, *Administrative Patent Judge*.

**DECISION ON APPEAL**

This appeal involves claims to impact modified polystyrenes and methods for their preparation. The examiner has rejected the claims as anticipated and obvious. We have jurisdiction under 35 U.S.C. § 134. We affirm.

**BACKGROUND**

“Polystyrene is one of the largest volume thermoplastic resins in commercial production today.” (Specification 1.) However, unmodified polystyrene can be too brittle for certain applications. (*Id.*) “Thus, styrene-



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## FTI LEGAL DEPARTMENT

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,446	12/05/2003	Jose M. Sosa	API-1028US (COS-936)	1024

25264 7590 03/19/2007  
 25264 7590 03/19/2007  
 FINA TECHNOLOGY INC  
 PO BOX 674412  
 HOUSTON, TX 77267-4412

EXAMINER  
 ASINOVSKY, OLGA

ART UNIT PAPER NUMBER

1711

MAIL DATE DELIVERY MODE

03/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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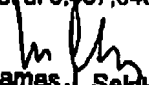
<b>Notice of Abandonment</b>	Application No.	Applicant(s)	
	10/729,446	SOSA ET AL.	
	Examiner	Art Unit	
	Olga Asinovsky	1711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:  
  

The Board of Patent Appeals and Interferences Affirmed the rejection of claims 1-5, 8 and 17 as being anticipated by Sosa et al'6,437,043 and claims 6-7, 9-17 and 19-30 as being obvious over Sosa et al'6,437,043 in view of Bowen Patent 5,633,318. The Decision on Appeal was mailed 01/26/2007.

  
**James J. Seldick**  
 Supervisory Patent Examiner  
 Technology Center 1700

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.